

United States
Circuit Court of Appeals
For the Ninth Circuit.

CHIN CHING,

Appellant,

vs.

JOHN D. NAGLE, as Commissioner of Immigration for the Port of San Francisco, California,

Appellee.

Transcript of Record.

Upon Appeal from the United States District Court for the Northern District of California, Southern Division.

FILED

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PAUL P. O'BRIEN,
CLERK

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF ATTORNEYS
OF RECORD.

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For Respondent and Appellee:

UNITED STATES ATTORNEY, San Fran-
cisco, Calif.

In the Southern Division of the United States Dis-
trict Court, in and for the Northern District of
California, Second Division.

No. 20,399-K.

In the Matter of CHIN CHING, on Habeas Corpus
—No. 29202/4-4, ex SS. “PRESIDENT
MADISON,” May 28, 1930.

PETITION FOR WRIT OF HABEAS CORPUS.

To the Honorable, the Southern Division of the
United States District Court, for the North-
ern District of California:

The petition of Chin Kim respectfully shows:

I.

That he is a Chinese person who was born in the
United States and subject to the jurisdiction thereof.

II.

That he has resided continuously in the United

States ever since his birth, save for the following trips to China: departed in November, 1905, and returned in January, 1907; departed in June, 1908, and returned in January, 1909; departed in April, 1912, and returned in November, 1913; departed in February, 1917, and returned in April, 1920; departed in April, 1925, and returned in October, 1928; that on each occasion of his departure from, beginning in November, 1905, and return to the United States, the said Chin Kim was examined by the United States Immigration authorities and, as a result, it was found and decided that he was a native-born citizen of the United States by virtue of having proved on each of said occasions that he was born in the United States and subject to the jurisdiction thereof. [1*]

III.

That, while in China between the years 1908 and 1909, he married his second wife, a Chinese by the name of Lee Shee; that, on April 22, 1909, in China, there was born to him and to his said wife a son by the name of Chin Ching.

IV.

That on the 28th day of May, 1930, the said Chin Ching arrived in the Port of San Francisco, California, and, thereupon, applied to the United States Immigration authorities for admission into the United States; that his application for admission was based upon the ground that he is a citizen

*Page-number appearing at the foot of page of original certified Transcript of Record.

of the United States, in that he is the foreign-born son of a native-born citizen of the United States (Section 1993 of Revised Statutes).

V.

That the application for admission of the said Chin Ching was heard by a Board of Special Inquiry, which was convened by the Commissioner of Immigration for said port and, as a result, the said Board of Special Inquiry found that Chin Ching was not a citizen of the United States for the reason that he was not the son of his alleged father, who is your petitioner, but that the said Board of Special Inquiry found and conceded that the alleged father was a native-born citizen of the United States; that an appeal was taken from the decision of the Board of Special Inquiry to the Secretary of Labor with the result that the Secretary of Labor affirmed the excluding decision of the Board of Special Inquiry and ordered the said Chin Ching deported to China.

VI.

That the said Chin Ching is now in the custody of John D. Nagle, as Commissioner of Immigration for the Port of San Francisco, at Angel Island, County of Marin, State and Northern District of California, Southern Division thereof, and the said John D. Nagle, acting under the orders of the Secretary of Labor, has given notice [2] of his intention to deport the said Chin Ching to China on the SS. "President Jackson," which sails from the Port of San Francisco, California, on the 24th day of October, 1930.

VII.

That the Board of Special Inquiry and the Secretary of Labor, in excluding him from admission into the United States and in holding him in custody so that his deportation may be effected, are acting in excess of the authority and power committed to them by the statutes in such cases made and provided for and are unlawfully confining, imprisoning and restraining the said Chin Ching, hereinafter referred to as the "detained" in each of the following particulars, to wit:

1. That, at the hearing before the Board of Special Inquiry, there was introduced, as a witness in behalf of the detained, one Chin Kim, who is the alleged father of the detained and the petitioner herein; that the said Chin Kim testified in agreement with the detained as to the following matters and things: that the father of the detained is named Chin Kim, that he is also known as Chin Ying Lin, that he is 55 years old, that he was born in San Francisco, that he is a laundryman by occupation, that he was last in China between the years 1925 and 1928; that the father of the detained has been married twice, that his first wife was named Louie Shee, that she died in China in 1908, that he had no children by his wife, Louie Shee, but that he and Louie Shee adopted a son by the name of Chin Bock, who applied for admission to the United States in 1921, who was deported from the United States, who died in China in 1922 and who was buried in a hill located about one li (about $\frac{1}{3}$ of mile) in back of Ung Sing village, China; that the

father of the detained married his second wife, Lee Shee, in China in 1908, that they were married at San Yuen village, Sun Ming District, China, the native village of Lee Shee; that Lee Shee is 39 years old, that she [3] has natural feet and that she is living at Ung Sing village, Sun Ning District, China; that the father of the detained has had five sons by his wife, Lee Shee, that these sons are: Chin Ching, 21 years old, who is the detained; Chin Sam, 18 years old, Chin Git, 11 years old, Chin Ng, 6 years old, Chin May, 4 years old, that all of these sons were born at Ung Sing village and all, except the detained, are living there with their mother; that the paternal grandfather of the detained was named Chin Guey Yee, that he died at San Francisco in May, 1929, and that he is buried in San Francisco; that the paternal grandmother of the detained is named Yee Shee, that she is 87 or 88 years old and that she is living at Sacramento, California; that the detained has never seen either of his paternal grandparents; that the detained has one paternal uncle, Chin Sing, who is 32 or 33 years old, who is single, who lives in the United States and who has never been to China; that the detained has no paternal aunts; that the maternal grandfather of the detained is named Lee You Choon, that he resides in Mexico; that the maternal grandmother of the detained was named Wong Shee, that she died 2 or 3 years ago at San Yuen village, China; that the detained has one maternal uncle, Lee Sing, who is living in Mexico; that Ung Sing village, where the detained was born

and has lived, contains 16 dwellings, which are arranged in four rows with four houses to each row, and one schoolhouse which stands by itself at the west end of the village, that the village faces south; that an adobe wall about four feet high extends across the rear and on the east and west sides of the village, that there is no wall in front of the village, that the country in front of the village is used for growing rice, that there is no fish-pond in the village, that there is a gateway at each of the east and west sides, that the gateways are not arched on top, that the gateways are not locked at night, that the toilet houses, about 16 in number, are located inside of the east wall, that these houses are made of [4] adobe, that these houses have roofs; that water for household purposes is obtained from a well located a short distance in front of the schoolhouse, that there is only one well in the village; that all the houses in the several rows of the village touch each other; that there is no ancestral hall in the village, that the nearest ancestral hall is located at Sun Ning City, which is about 12 or 13 lis (about 4 miles) east of Ung Sing village; that the schoolhouse in the village is about one-half the size of a regular dwelling, that it is made of brick, that it has dirt floors, that it has one outside entrance, that the school is called Ung Sing, that the name of the school appears over the entrance in Chinese characters "Ung Singja Sit," that when the detained's father arrived home in 1925, the detained and his brothers, Chin Sam and Chin Git, were attending this school, that the de-

tained never attended school with his deceased adopted brother, Chin Bock, that the village school-teacher was named Chin Kee, that he is about 50-odd years old, that he came from Ow Sam village, which is about 20 lis (about 7 miles) distant from Ung Sing village, that he slept at the schoolhouse, that school was held six days a week, that the school hours were from 8 A. M. to 12 M. and with an hour for lunch and from 1 P. M. to 5 P. M., that the detained always came home for his lunch; that the detained's house is the second in the second row counting from the east of the village, that it is one story, that it is made of brick, that it contains five rooms, which are: two bedrooms, two kitchens and a parlor, that it has dirt floors throughout, that it has an open court, which is paved with brick, that it has no outside windows, that it has two outside entrances, the large door of which opens to the east and the small door of which opens to the west, that each bedroom has a double skylight, that each kitchen has a single skylight, that there is a loft in each bedroom and a shrine loft in the parlor, that all of the lofts are attached to the rear wall of the several rooms, that both of the kitchens are [5] used for cooking, that each kitchen has a stationary stove, which is made of brick, that the stoves have no chimneys, that fuel is stored in the kitchens, that the stoves are attached to the wall between the bedrooms and kitchens; that when the detained's father was last in China between 1925 and 1928, the detained's father, his wife and their two youngest sons, Chin Ng and Chin May, slept in the bed-

room on the west side of the house and that the three oldest sons, including the detained, slept in the bedroom on the east side; that when the detained's father was last in China, he remained at all times in Ung Sing village, except that in the latter part of 1927 he made a trip, alone, to Hong-kong on which he remained three or four days; that the nearest market to Ung Sing village is called Sam Gop Market, that it is about 8 lis (about 3 miles) east of Ung Sing village, that when the detained's father was last in China, he frequently visited this market, that he made his headquarters at Wing Kee Company in this market, that he occasionally took the detained with him on trips to the market; that Ai Gong Market is located about 3 pos (about 10 miles) from Ung Sing village, that when the detained's father was last in China, he occasionally visited this market but that he never took the detained with him; that when the detained's father was last in China, he, in company with the detained and with his two youngest sons, Chin Sam and Chin Git, visited the grave of his deceased adopted son, Chin Bock, during the Ching Ming Festival of 1926, 1927 and 1928, that the grave of this adopted son *is marked* by any stone or tablet; that there is a small stream of water located about five or six lis (about 2 miles) from Ung Sing village to the west, that this stream is not navigable; that Chin Ai Lee, who died about 6 or 7 years ago, lived in the house opposite the large door of the detained's house, that this house is now occupied by Chin Ai Lee's wife and his

mother, who is past 60, that Chin Ai Lee had no children; that Chin Ai Moon, about 40 years old, a [6] farmer, lived with his wife and son, Chin Foo, about 12 years old, in the house opposite the small door side of the detained's house; that Chin Ai Git, about 40 years old, a farmer, lived with his wife and son, Chin Yow, about 6 years old, and his daughter, Chin Ngew, about 15 years old, in the house immediately in front of the detained's house; that Chin Ying, about 50 years old, a farmer, lived with his wife and son, Chin On, about 20 years old, in the house immediately to the rear of the detained's house; that the detained has written many letters to his father since the latter's return to the United States in 1928, that the detained's father has several of these letters in his possession; that the detained's father left Ung Sing village to return to the United States in September, 1928, that immediately before commencing his journey to the United States he bade his family goodbye at his house, that the detained helped him to carry his baggage as far as Sai Ning Railway Station, where he took a train at about 10 o'clock A. M.; that a village known as Lower Ung Sing village is located about one-half a li (about 1/6 of mile) west of the detained's native village of Ung Sing, that Lower Ung Sing village has 50 or 60 houses, that it is not surrounded by a wall, but that it is surrounded by bamboo trees; that Yung Shee Yuen village is located about 3 lis (about one mile) in front of the detained's village, that Yung Shee Yuen village is inhabited by Lew family people; that Kee Lung

village is located about 8 lis north (about 3 miles) of the detained's village, that it is occupied by Toy family people.

2. That, at the hearing before the Board of Special Inquiry, there was, also, introduced, as a witness in behalf of the detained, one Lew Yew; that the said Lew Yew testified as follows; that he is 40 years old, that he was born at Lung Wan village, Sun Ning District, China, that he first came to the United States in 1909, that he was last in China between 1928 and 1929, that he first became acquainted with Chin Kim, the alleged father of the detained, about 6 or 7 years [7] ago at the Now Fong Company, San Francisco, California, that, in 1928, when he was about to depart from the United States for a visit to China, Chin Kim entrusted him with \$50.00 U. S. currency and with a letter to deliver to his (Chin Kim's) family at Ung Sing village, China, that he took this letter and money and delivered the same to Chin Kim's wife, Lee Shee, at Ung Sing village, China, in November, 1928, that on this occasion Lee Shee introduced the detained to him as her son and as the son of Chin Kim, that he again visited Lee Shee and her family at Ung Sing village, China, in September, 1929, for the purpose of ascertaining whether or not she or any of the members of her family had a message to be delivered to to Chin Kim in the United States.

3. That, at the hearing before the Board of Special Inquiry, there were introduced in evidence all the immigration records relating to Chin Kim,

the alleged father of the detained; that these records disclose that the said Chin Kim has made sworn statements to the immigration authorities claiming to have a son, who bears the same name as the detained and who was born on the same date as claimed for the birth date of the detained, on the following occasions: in April, 1912, incident to his departure from the United States for China; in November, 1915, incident to his return from China; in February, 1917, incident to his departure from the United States for China; in April, 1920, incident to his return from China; in 1921, incident to the application for admission to the United States of his adopted son, Chin Bock; in April, 1925, incident to his departure from the United States for China; in October, 1928, incident to his return from China.

4. That, at the hearing before the Board of Special Inquiry, the detained personally identified the said Chin Kim, his alleged father, as his father, and the said Chin Kim personally identified the detained as his son. [8]

5. That, at the hearing before the Board of Special Inquiry, the detained personally identified his witness, Lew Yew, as the person whom he met in his home in 1928 and 1929 and the said Lew Yew personally identified the detained as the person to whom he was introduced in the home of Chin Kim as the son of Chin Kim and the latter's wife, Lee Shee.

6. That the detained speaks the same dialect, namely, See Yip of the Sun Ning District, of the

Chinese language as is spoken by Chin Kim, his alleged father.

That your petitioner alleges that the fact that Chin Kim, the alleged father of the detained, and the detained have testified in agreement upon every matter of family history, of family relations, of the principal and minor events of family life, as to the description of the village in China where the detained was born and has lived, as to the conditions in the village, as to the description of the family home, the fact that the said Chin Kim was in China at a time to render possible his paternity to the detained, having been in China from June, 1908, until January, 1909, and the detained having been born on April 22, 1909, the fact that there was mutual identification between the said Chin Kim and the detained, the fact that the witness, Lew Yew, has visited the home of Chin Kim and there met the detained; the fact that the detained speaks the same dialect of the Chinese language as the said Chin Kim, established to a reasonable certainty that the relationship of father and son exists between the said Chin Kim and the detained; that the said immigration authorities, in finding that the said relationship has not been established, have rejected the evidence aforesaid and have thereby acted arbitrarily and manifestly unfair and have, as a result, denied the detained the full and fair hearing to which he was and is entitled.

7. That the said immigration authorities, in denying the [9] existence of the relationship of father and son between the alleged father, Chin

Kim, and the detained, have urged certain testimonial discrepancies, which are disclosed in the findings of the Board of Special Inquiry, which findings are filed herewith under Exhibit "A," which exhibit is hereby expressly referred to and made a part of this petition with the same force and effect as if set forth in full herein; that your petitioner alleges that the claimed testimonial discrepancies, as urged by the Board of Special Inquiry, are not unreasonable, but that the same are the probable result of honest mistake, rather than deliberate error or falsehood, as disclosed by the brief of Washington counsel, which brief was filed in behalf of the detained before the Secretary of Labor and a copy of which brief is filed herewith under Exhibit "B" and is hereby expressly referred to and made a part of this petition with the same force and effect as if set forth in full herein; that the said immigration authorities, in denying the existence of the claimed relationship upon so-called testimonial discrepancies, which are not unreasonable or which do not show that the witnesses have given false testimony, but which discrepancies are subject to a reasonable explanation, as disclosed by the brief filed herewith, have acted manifestly unfair and have denied the detained the full and fair hearing to which he was and is entitled.

VIII.

That the detained is in detention, as aforesaid, and for said reason is unable to verify this petition; that your petitioner, in behalf of the detained

and in his own behalf, verifies this petition, but for and as the act of the detained.

WHEREFORE, your petitioner prays that a writ of habeas corpus issue herein as prayed for, directed to the said Commissioner, commanding and directing him to hold the body of the said detained [10] within the jurisdiction of this Court, and to present the body of the said detained before this Court at a time and place to be specified in said order, together with the time and cause of his detention, so that the same may be inquired into to the end that the said detained may be restored to his liberty and go hence without day.

Dated at San Francisco, California, October 23d, 1930.

STEPHEN M. WHITE,
Attorney for Petitioner. [11]

United States of America,
State of California,
City and County of San Francisco,—ss.

Chin Kim, being first duly sworn, deposes and states as follows:

That he is the petitioner named in the foregoing petition; that the petition has been read and explained to him and that he knows the contents thereof; that the same is true of his own knowledge, except those matters stated therein on information and belief and, as to those matters, he believes it to be true.

CHAN KIM.

sioner, are hereby ordered and directed to retain the said Chin Ching, within the custody of the said Commissioner of Immigration, and within the jurisdiction of this court until its further order herein.

Dated at San Francisco, California, October 23d, 1930.

FRANK H. NORCROSS,
United States District Judge.

[Endorsed]: Filed Oct. 23, 1930. [13]

EXHIBIT "A."

20,399-K.

FINDINGS AND DECISION OF BOARD OF
SPECIAL INQUIRY.

By CHAIRMAN:

CHIN CHING (JUNG), *alias* CHIN MOON WAI, is applying for admission to the U. S. as the son of CHIN KIM, *alias* CHIN YING LIM.

Applicant states he is 22 years of age, Chinese reckoning, born ST. 1-3-3 (April 22, 1909), in the UNG SING VILLAGE, S.N.D., China. He appears to be about the age claimed.

CHIN KIM was conceded a native by this Service on his return from his first trip to China on which he departed Nov. 4, 1905, "Siberia" and returned February 25, 1907, on the "Mongolia."

CHIN KIM next departed for China June 30, 1908, on the "Mongolia" and returned February 26, 1909, on the "Korea." This trip is the essen-

tial one making paternity possible to a child of the applicant's claimed age.

CHIN KIM again departed for China without preinvestigation, April 24, 1912, on the "Tenyo Maru" and returned on the same vessel December 8, 1913, and first declared that he had a son named CHIN JUNG, born ST. 1-3-3 (April 22, 1909).

Alleged father departed on his 4th trip to China, March 27, 1917, on the SS. "Tjisondari" and returned on the same vessel May 11, 1920, and mentioned Chin Jung, as having been born ST. 2-3-3 (April 12, 1910). On all other occasions thereafter he stated Chin Jung was born ST. 1-3-3.

Chin Kim attempted to bring a boy named CHIN POK (See file No. 20251/6-1) into the U. S. as the son of his first wife. Chin Pok was given a primary inspection and hearing and quite a few discrepancies *appeared* the testimony of himself and alleged father, Chin Kim. He was held for a Board of Special Inquiry and in that hearing Chin Kim claimed Chin Pok was his adopted son. Chin Pok was deported to China and it is said by the applicant and Chin Kim that he died a short time after his return to China.

Chin Kim last returned to China April 18, 1925, on the "President Taft" and returned October 17, 1928, on the "President Grant."

In addition to the alleged father and the applicant a Chinese man named Lee Yew or Lee Ho Shing testified in this case. Lee Yew claims he first met the applicant at his home in Ung Sing Village in CR. 17—latter part of 10th. month (Nov.,

1928), when he delivered \$100 Chinese currency and a letter to the home of the applicant, who was home when he called, from Chin Kim in this country. Applicant agrees exactly with Lee Yew as to their first meeting, but stated only delivered \$100 Chinese money to his home on that occasion—no letter. Applicant reversed himself today (23d June) and said Lee Yew also delivered a letter to his home on that occasion.

The following discrepancies appear in the record between the applicant and his alleged father and it will be noted that the alleged father on several occasions repudiated his testimony in the case of CHIN POK, who was deported. [14]

Alleged father stated that the applicant and his 2d and 3d sons, Chin Som and Chin Git, all attended the home village school while he was in China on his last visit, and that the latter two sons had started to attend school before he arrived home (p. 5). Applicant (p. 16) stated that Chin Git started to attend school in CR. 17-2d month (about March, 1928). It will be noted alleged father returned to U. S. October 17, 1928.

Alleged father (pg. 6) stated the applicant attended the home village school six (6) days in a week when he was home last.

Applicant (pg. 17) stated that during his father's last visit home he attended school every day—seven (7) days each week.

Alleged father (pg. 3) agrees with applicant that there is an adobe wall, 4 feet high, on both sides and rear of the village, which has been standing there

for 20 or 30 years. In the case of CHIN POK (Primary hearing) the alleged father stated there was no wall at his village and re-affirmed that statement on recall.

In the present testimony the alleged father *stated* are about 16 toilets made of adobe blocks, larger than a brick, located just inside the East wall along the East wall of his village. (See alleged father's diagram, Exhibit "A.")

The applicant (pg. 18) states there are 10 toilets made of brick, the same kind of brick as the dwelling-houses, not of adobe or adobe blocks, at the East end of the village. He drew a diagram placing the East wall between the houses (dwellings) and the toilets, following which he confirmed the location of the toilets outside the wall by a statement to that effect. (See Exhibit "E.")

Both the applicant and the alleged father in their diagram show the location of the only well in their village as in front of the schoolhouse; whereas, the alleged father in the case of CHIN POK (20251/6-1) stated that the only well in his village is located a short distance in front of his row. (See pg. 7 present testimony and pg. 3 Primary hearing, Chin Pok case.)

Alleged father (pg. 7) testified that there is a double skylight in each bedroom of his house in Ung Sing village, and a single skylight in each kitchen, all covered with glass. Applicant (pg. 19) states there are two *skylight* in each bedroom of his father's house and that those skylights are single.

Applicant and alleged father give different locations to their bedrooms when the latter was home on his last visit; but agree as to the persons who slept together.

Alleged father (page 8) stated the house opposite the large door of his house belongs to CHIN AI LEE, who is deceased and was not married, and that that house was occupied by Chin Ai Lee's mother. He was confronted with his statement in the CHIN POK to the effect that Chin Ai Lee and his wife lived in that house and he agreed that Chin Ai Lee was married and that his wife and the mother of Chin Ai Lee were both living in that house when he was home on his last visit. [15]

The applicant (pg. 19) states that the widow of Chin Ai Lee lives in the house opposite their large door; that she was living there alone when his father was last in China; that Chin Ai Lee is dead; he never saw him; never saw his mother and that his mother did not live in that house when his father was last home.

Alleged father (pg. 8) stated that CHIN FOO, 12 years old, lived with his father, Chin Ai Moon, in the house opposite the small door of his house when he was last in China. Applicant agrees to the name of this boy and that he lives in that house, but gives his age as 20 years; further, that he attended school with that boy in the home village. In this connection it will be noted that the father last returned from China about two years ago.

Alleged father shows in his diagram (Ex. "A") that CHIN SING lives in the fourth and last house

in the row in which he lives and that CHIN CHOON lives opposite Chin Sing's house to the West. The applicant shows the locations of their houses in reverse order. The village is claimed to contain but 16 dwellings, 4 houses in each row.

Alleged father (pg. 8) states that both kitchens of his house were used for cooking purposes when he was last home and that there are stationary stoves in each kitchen made of brick, and that both of these stoves are attached to the wall between the bedrooms and the kitchens—both sides the same.

Applicant (pg. 20) stated that both kitchens of his house were used, alternately, for cooking purposes when his father was last home; that the stationary stoves in these kitchens are made of brick; that the stove on the large door kitchen is along the North wall, while the stove on the small door kitchen is along the South wall. According to their testimony the village faces South. Applicant states the kitchens are at the front of his father's house.

Alleged father states applicant never attended school with CHIN POK in the home village. Applicant states he attended school with CHIN POK for 2 or 3 years in the village school (pg. 8 and 16).

Alleged father (pg. 9) states that he has a wooden tablet, which he prepared for himself and wife, not opened but covered with a piece of cloth, on the shrine shelf of his home in China.

Applicant (pg. 20) states there are no wooden tablets on the shrine shelf in his father's house; that there is no such tablet on that shelf to cover his

father and mother, but that there is a piece of paper with writings on it to serve that purpose, and that he would know if there was a wooden tablet in his home to commemorate his parents tho it might be covered up.

A single full length photograph, purporting to be that of the applicant, was submitted by the attorney of record. Applicant was questioned (pages 21 and 23) concerning this photo at first stating he was never taken in a group with any members of his family or anyone else. It was pointed out to him that another person appeared to be sitting in a chair, the sleeve of a Chinese blouse showing on the left margin of the photo., and the applicant admitted he was photographed with Chin On, a neighbor, but believed his father only wanted to see his photograph and not the photograph of a friend. [16]

Other discrepancies appear in the record of this applicant which will no doubt have an adverse bearing on the case.

In view of the discrepancies listed above I am not satisfied that the applicant is the natural *bona fide* son of CHIN KIM, *alias* CHIN YING LIM, nor that the burden of proof as required by Section 23 of the Act of 1924 has been sustained and I move that the applicant be denied admission to the United States and deported to China the country whence he came.

By Member KELLY.—I second the motion.

By Member AABEL.—I concur. [17]

SUMMARY.

By CHAIRMAN:

In compliance with Bureau telegram, under date of August 28th, 1930, a Board of Special Inquiry reconvened for the purpose of receiving testimony of an additional witness named LIM WING, *alias* LIM YIP LOOK. The testimony of this additional witness was received as well as some additional testimony from the applicant and his alleged father. It is claimed by the applicant and the alleged father that LIM WING made his initial visit to their home about CR. 16-11 or 12 (About December, 1927, or January, 1928) when the latter first met and was introduced to the applicant. The purpose of this visit was to deliver \$50.00 in Chinese currency. The alleged father and the additional witness and applicant agree that the additional witness made another visit in CR. 17-1 for the purpose of making a new year's call. The applicant and the additional witness claim the latter made five more visits to the applicant's home, each time delivering the exact sum of \$50.00. It is further claimed that LIM WING was associated in business in the LOON HING LUNG COMPANY at UNG YICK CITY where the alleged father sent money allotments to his home to be delivered. The applicant, on page 33, states that he has never been in LIM WING'S store in GUNG YING CITY and, therefore, has never seen him there. LIM WING, on page 40, claims the applicant had visited his store in CR. 17-5 (about June or July, 1928), met

him there alone and engaged in conversation with him for about half an hour. On page 41, he reversed himself and stated that the applicant had never visited his store in GUNG YICK MARKET, that he meant the applicant's father had visited him [18] there and had misunderstood me. LIM WING stated he conducted the LOON HING LUNG CO., GUNG YICK CITY, which dealt in Chinaware, with a friend of his, named LIM BON, as copartner. This store, he stated, was founded in CR. 17-2 (March, 1928) after he had gone to China and that the firm was not in existence before that time; further that after he had arrived home his partner got him interested in it and they started this firm together, and it was given the name of LOON HING LUNG CO. by his partner. This store, he states, was located on SOO HONG STREET, in GUNG YICK CITY. It is observed that LIM WING, when preinvestigated on Nov. 16, 1927, incident to his last trip to China, stated his address in China would be "LUEN HING LUNG CO., SOO HONG ST., GUNG YICK CITY." He was asked to explain why he had given that address, if the firm was not in existence prior to the time of his arrival in China. He hesitated for a considerable length of time and made no reply. It will be further observed in LIM WING'S testimony that he, during his residence in this country, was engaged in the occupation of laundryman and dishwasher and had never engaged in business.

LIM WING stated that the allotments of CHIN KIM to his family in China were sent to his store

(Lim Wing's) in Gung Yick City to be delivered by him and he personally made those deliveries at the different time he had stated.

CHIN KIM was last in China from CR. 14 (1925), about May, until about Sept., 1929. In the present instance he stated that prior to CR. 14 (1925) (page 36) he had been sending money home thru a good friend of his *name* CHIN WING of the WING KEE COMPANY, SAM GOP MARKET. On page 5, of the original hearing, he stated he made his headquarters in that store when last in China and gave the distance of that market from his village as "about 8 lis East." He admits that he took that business away from a friend and member of his own clan family and entrusted his allotments of money to his family in China to LIM WING, a man of another clan family, who was doing business in Gung Yick City (about 2 pos away from his village) for delivery to his home.

LIM WING (page 40, at bottom) stated he delivered money to quite a few families of residents of this country, naming the families of LIM YIP PUEY and LIM YIP CHAY. His family history sheet in file No. 29457/6-25 shows him to have visited but one, the family of Chin Gim, at Ung Sing Village, SND. He was asked why he did not mention at that time the visits to the homes of Lim Yip Puey and Lim Yip Chay and he replied that he had visited so many parties that he didn't have time to name all of them. A little further on (page 41) I asked him how he came to single out Chin Kim's

family as the only one he had visited and delivered money to when interrogated at the time of his arrival in the U. S. and he said he just happened to remember this party because Chin Kim's mother had told him that her son had gone to the U. S.

All of the above points working together and considered in relation to each other indicate that it is highly probably that LIM WING was not associated in business in the LOON HING LUNG CO., GUNG YICK CITY; that CHIN KIM did not entrust his money allotments home to LIM WING thru that firm, as it would be inconsistent for him to transfer his business from a friend and clansman, in whose store he made his headquarters nearer his home and give it to a man of another clan. It is obvious that the alleged meetings of LIM WING were prepared for the occasion.

On pages 34 and 35 of the record the applicant and his alleged father grasped the opportunity to iron out the discrepancies in their former testimony, but in the opinion of the board the changes advanced by these two principals deserve to be rejected as of little or no weight. This Board takes the stand that the discrepancies, in their entirety, carry just as much weight to-day as they did at the [19] original hearing. CHIN GIM (KIM) alleged father executed an affidavit (with his photo attached) before a notary public, John F. Burns, under date of Sept. 10, 1930, which sets forth that he made certain discrepancies in his previous testimony given at the original hearing on the application of his son, Chin Ching, for admission to the

U. S. which he desires to correct. This affidavit is marked Exhibit "G," incorporated in and made a part of the record in this case. It is noted in the next to last paragraph of this document that Chin Gim relates that he had no knowledge of the mistake mentioned therein (relation to his previous testimony) until so informed by his attorney. . . . It is the belief of this Board that Chin Kim and the applicant truly described in the first instance the matters on which they were at variance and are now seeking to cover up and minimize them. The applicant claims to be 22 years of age (Chinese) and to have lived in Ung Sing Village, a village of but 16 dwellings. The alleged father claims he spent over three (3) years in that village from about May, 1925, to about September, 1928. Both the applicant and his alleged father should be held fully responsible for their original statements.

I am of the opinion that the testimony given by the applicant, his alleged father and the additional witness, LIM WING, on reopening has not to any appreciable extent helped the case of this applicant, and as previously stated I am of the opinion that the discrepancies between the applicant and his alleged father developed in the original hearing have fully as much weight to-day at the time of the applicant's exclusion by the previous Board.

In view of the foregoing, I reaffirm by motion of June 23, 1930, to exclude the applicant admission to the United States and recommend his deportation to China the country whence he came.

By Member McNAMARRA.—I second the motion.

By Member AABEL.—I concur.

[Endorsed]: Filed Oct. 23, 1930 [20]

[Title of Court and Cause.]

NOTICE OF FILING OF FINDINGS AND
DECISION OF SECRETARY OF LABOR.

To JOHN D. NAGLE, as Commissioner of Immigration for the Port of San Francisco, Respondent Herein, and to GEORGE J. HATFIELD, United States Attorney, His Attorney:

You and each of you will please take notice that the petitioner herein files herewith under Exhibit "C," as part and parcel of his petition for a writ of habeas corpus and with the same force and effect as if set forth in full in said petition, a copy of the findings and decision of the Secretary of Labor, through his Board of Review, denying the application for admission to the United States of the detained herein.

Dated this 31st day of January, 1931.

STEPHEN M. WHITE,
Attorney for Petitioner. [21]

EXHIBIT "C."

FINDINGS AND DECISION OF SECRETARY
OF LABOR, THROUGH HIS BOARD OF
REVIEW.

No. 55733/122. San Francisco. August 22, 1930.

In re: CHIN CHING, age 21.

This case comes before the Board of Review on appeal from a decision of a Board of Special Inquiry at the port denying admission as the son of a native citizen of the United States. The citizenship of the alleged father being conceded, the question at issue is relationship.

Attorney Roger O'Donnell has presented oral argument and filed a brief. Attorney W. H. Wilkinson at the port.

The record shows that the alleged father was in China at a time to make possible his paternity to a child of the applicant's asserted age and that in 1913 he claimed to have a son of this applicant's description. It also shows that in 1921 this alleged father attempted to bring into the United States one Chin Pok as his son whose birth year was given as 1906. When confronted with his testimony in 1907, that he had no children, the alleged father said that Chin Pok was an adopted son. Chin Pok was excluded and, his appeal being dismissed by the Department, deported.

The alleged father who was last in China in 1928, and an alleged acquaintance, who claims to have

met the applicant in 1929, appeared to testify. The testimony shows such discrepancies as the following:

The applicant and his alleged father now agree that there is an adobe wall four feet high about three sides of the home village which the alleged father says has *been twenty* or thirty years. But the alleged father's 1921 record shows that he then testified that there was no wall about his village. Similarly while the applicant and his alleged father now agree that the only well in the village is near the school at the tail of the village in 1921, the alleged father said that the only well in his village was located in front of his row near the other end of his village. The attorney attempts to minimize the damaging force of these discrepancies by saying that whereas the alleged father has been at home for three years, 1925-1928, since 1921, he had been at home only occasionally before 1921, but his record shows that he was in China on four visits prior to 1921 and that the last of them, 1917-1920, was a three year visit.

The alleged father says that all of his three oldest sons were attending school when he went home in 1925 and that none of them started to go to school while he was there. The applicant says that one of these three was not attending school when his father came home and did start in March, 1928. Also while the alleged father says that his son who the applicant claims to be attended school only six days a week when he (the alleged father) was at home last, the applicant declares that he attended school every day, seven days a week. [22]

No. 55733/122.

The alleged father says that his village has sixteen toilets which are located inside the village wall. The applicant says that his village has ten toilets which are located outside the wall of his village. The disagreement is confirmed in diagram approved as correct by the alleged father and the applicant, respectively.

The alleged father says that the widow and mother of a deceased neighbor were living in the house next to his own when he was last in China. The applicant says that the house next to his was occupied by one woman living alone when his father was last at home. The father gives the age of an occupant of the house next door on the other side as twelve whereas the applicant gives that person's age at twenty.

The alleged father testifies that the applicant and Chin Pok, the deportee referred to above, never attended school together in the home village. The applicant testifies that he and Chin Pok attended school together in the home village for two or three years.

In view of the appearance of such discrepancies, which could not reasonably be expected to appear in a *bona fide* case, it is not thought that the evidence reasonably established this *applicant* claim to be the son of his alleged father.

It is recommended that the appeal be dismissed.

L. PAUL WINNINGS,

Chairman, Secy. & Commr. Genl's Board of Review.

NJW.

So ordered.

W. W. SMELSER,
Assistant to the Secretary. [23]

No. 55733/122. San Francisco. October 20, 1930.

In re: CHIN CHING, age 21.

The appeal from a decision of a Board of Special Inquiry denying admission to this applicant as the son of a man conceded to be a native of the United States was dismissed on August 22, 1930, because the claimed relationship was found not to have been reasonably established. On August 26, 1930, the case was reopened to hear an additional witness.

Attorney Roger O'Donnell has again presented oral argument and has filed a supplementary brief. Attorney W. H. Wilkinson at the port.

This additional witness says that he was introduced to the applicant by the latter's alleged father in China in 1928 and that he has seen the applicant a number of times since that introduction. In this man the testimony of the alleged father and the applicant agrees regarding this matter with that which this witness gives. But, even though discrepancies such as the witness' saying that he participated in the founding of a firm in March, 1928, which before that had neither existence or name, whereas in November, 1927, prior to his departure from the United States he named that firm as his "headquarters" in China, he overlooked, and the testimony of this witness be regarded as favorable to the applicant's claim, it cannot be held to be of sufficient weight to offset the adverse features, the discrep-

ancies between the testimony of the applicant and that of his alleged father and the discrepancies between the alleged father's present and former testimony, which cause the applicant's rejection and the dismissal of his appeal.

Both the alleged father and the applicant have taken advantage of the reopening to change their testimony regarding a number of matters about which their original statements conflict, as follows:

The alleged father originally testified that all of his three oldest sons were attending school when he went home in 1925 and that none of them started to go to school while he was there between 1925 and 1928, whereas the applicant originally stated that one of these three, namely, Chin Git, had not started to go to school before his father came home in 1925, but did start to go to school in 1928. On September 10, 1930, after the dismissal of the appeal and the order reopening the case had been issued, the alleged father executed an affidavit wherein he says that Chin Git started to go to school in 1927, and explains: "This mistake on affiant's part having occurred through his momentary failure to realize the difference in ages between his second and third sons." This seems to be an indication, almost an admission, that this alleged father was testifying from a fabricated scheme concerning a concocted family for certainly if he were testifying according to the facts, his statement that Chin Git was going to school when he reached home in 1925 and from there until 1927 would have been based on his direct knowledge of what Chin Git was doing

if, as claimed, he and that boy were living in the same house, and would not depend on his realizing or remembering the difference between the stated ages of his second and third sons. [24]

No. 55733/122.

An outstanding discrepancy in the original testimony was that whereas the alleged father testified, and confirmed in a diagram of his village, that the toilet houses in his village are located inside the village wall and are sixteen in number, the applicant testified, and confirmed in his diagram, that the toilet houses are located outside the village wall and number ten. Now the alleged father volunteers the statement that the toilet houses are outside the wall and alleged that the reason for his previous "mistake" was that he had forgotten their location. In view of the fact that he was in China for three years on his last visit and returned only two years ago, it is scarcely credible that he should have forgotten whether or not he had to go around through a gateway or climbed over a wall in order to make use of the village toilet facilities. The testimony is also brought into agrument concerning the number of toilet houses; that applicant now saying that there are fifteen or sixteen. If this is true, it is not seen why he should, as he did, describe and picture them as precisely ten in number. As to the material of which these buildings are constructed the alleged father quite definitely described that material as not brick but adobe, and the applicant definitely stated that the building is not adobe but

brick. Now each volunteer the statement that the adobe is faced with brick.

Whereas the alleged father originally testified that opposite the large door of his house two women, the widow and the mother of a deceased neighbor lived, the applicant testified that only one woman, the widow, lived there. Now, the applicant says that the mother went away to work but he originally said that he never saw that woman.

The alleged father originally testified that there was a wooden tablet covered with a cloth on the shrine loft of his house, which referred to him and to his wife, while the applicant declared that there was no such tablet there and that if such a tablet were there he would know it. The applicant and the alleged father now volunteer the statement that there is such a tablet there and that it is covered with paper.

But even were all such indications of collusion and fabrication passed over there still remains the serious discrepancies between the present testimony of the alleged father and the testimony he gave in 1921 when he fraudulently attempted to bring into the United States as his blood son one Chin Pok, who, when confronted with a record that showed that he could not be the alleged father's natural son, the alleged father claimed to be an adopted son, and who was excluded and deported.

Those discrepancies, which could not reasonably be expected to appear in the record of a *bona fide*

case, are voted in the memorandum of August 22, 1930.

It is not thought that any evidence has been produced in the re-opened case which warrants a change in the Department's outstanding decision.

It is recommended that the dismissal of the appeal be affirmed.

L. PAUL WINNINGS,
Chairman, Secy. and Comr. Genl's, Board of Review.

EJW.

So ordered.

W. W. SMELSER,
Assistant to the Secretary. [25]

[Endorsed]: Due service and receipt of a copy of the within Exhibit "C" is hereby admitted this 31st day of January, 1931.

GEO. J. HATFIELD,
Attorney for Respondent.

Filed Jan. 31, 1931. [26]

[Title of Court and Cause.]

APPEARANCE OF RESPONDENT.

Respondent hereby appears through the undersigned attorney and files herewith in answer to the order to show cause herein, the original certified record of the immigration proceedings relative to

said Chin Ching before the Bureau of Immigration and the Secretary of Labor.

GEO. J. HATFIELD,
United States Attorney,
Attorney for Respondent.

[Endorsed]: Filed Jan. 12, 1931. [27]

[Title of Court and Cause.]

At a stated Term of the Southern Division of the United States District Court for the Northern District of California, held at the courtroom thereof, in the City and County of San Francisco, on Monday, the 12th day of January, in the year of our Lord one thousand nine hundred and thirty-one. Present: The Honorable FRANK H. KERRIGAN, Judge.

MINUTES OF COURT—JANUARY 12, 1931—
ORDER RESPECTING INTRODUCTION
OF ORIGINAL IMMIGRATION RECORDS.

This matter came on regularly for hearing on order to show cause as to issuance of a writ of habeas corpus. S. M. White, Esq., was present as attorney for petitioner. Wm. A. O'Brien, Esq., Asst. U. S. Attorney, was present for respondent and filed Immigration records as respondent's exhibit. After hearing attorneys, the court ORDERED that said matter be and same is hereby submitted on briefs to be filed in 3 and 2 days.

[28]

[Title of Court and Cause.]

At a stated term of the Southern Division of the United States District Court for the Northern District of California, held at the courtroom thereof, in the City and County of San Francisco, on Tuesday, the 17th day of February, in the year of our Lord one thousand nine hundred and thirty-one. Present: The Honorable FRANK H. KERRIGAN, Judge.

MINUTES OF COURT—FEBRUARY 17, 1931—
ORDER DENYING PETITION FOR WRIT
OF HABEAS CORPUS.

IT IS ORDERED that the petition for writ of habeas corpus heretofore submitted herein be, and the same is, hereby denied and the said petition be, and the same is, hereby dismissed. [29]

[Title of Court and Cause.]

NOTICE OF APPEAL.

To the Clerk of the Above-entitled Court, to JOHN D. NAGLE, Commissioner of Immigration, and to GEORGE J. HATFIELD, Esq., United States Attorney, His Attorney:

You and each of you will please take notice that Chin Kim, the petitioner in the above-entitled matter, hereby appeals to the United States Circuit

Court of Appeals for the Ninth Circuit, from the order and judgment rendered, made and entered herein on February 17, 1931, denying the petition for a writ of habeas corpus filed herein.

Dated this 26th day of February, 1931.

STEPHEN M. WHITE,
Attorney for Appellant. [30]

[Title of Court and Cause.]

PETITION FOR APPEAL.

Comes now Chin Kim, the petitioner in the above-entitled matter, through his attorney, Stephen M. White, Esq., and respectfully shows:

That on the 17th day of February, 1931, the above-entitled court made and entered its order denying the petition for a writ of habeas corpus, as prayed for, on file herein, in which said order in the above-entitled cause certain errors were made to the prejudice of the appellant herein, all of which will more fully appear from the assignment of errors filed herewith.

WHEREFORE, the appellant prays that an appeal may be granted in his behalf to the Circuit Court of Appeals of the United States for the Ninth Circuit thereof, for the correction of the errors as complained of, and further, that a transcript of the record, proceedings and papers in the above-entitled cause, as shown by the praecipe, duly authenticated, may be sent and transmitted to the said United States Circuit Court of Ap-

peals for the Ninth Circuit thereof, and further, that the said appellant be held within the jurisdiction of this Court during the pendency of the appeal herein, so that he may be produced in execution of whatever judgment may be finally entered herein.

Dated at San Francisco, California, February 26, 1931.

STEPHEN M. WHITE,
Attorney for Appellant. [31]

[Title of Court and Cause.]

ASSIGNMENT OF ERRORS.

Now comes the appellant, Chin Ching, through his attorney, Stephen M. White, Esq., and sets forth the errors he claims the above-entitled court committed in denying his petition for a writ of habeas corpus, as follows:

I.

That the court erred in not granting the writ of habeas corpus and discharging the appellant, Chin Ching, from the custody and control of John D. Nagle, Commissioner of Immigration at the Port of San Francisco.

II.

That the court erred in not holding that it had jurisdiction to issue the writ of habeas corpus as prayed for in the petition on file herein.

III.

That the court erred in not holding that the allegations set forth in the petition for a writ of habeas corpus were sufficient in law to justify the granting and issuing of a writ of habeas corpus.
[32]

IV.

That the Court erred in holding that the claimed discrepancies in the testimony, as a result of the evidence adduced before the immigration authorities, were sufficient, in law, to justify the conclusion of the immigration authorities that the claimed relationship between the alleged father of appellant and appellant did not exist.

V.

That the Court erred in not holding that the claimed discrepancies in the testimony, as a result of the evidence adduced before the immigration authorities, were not sufficient in law, to justify the conclusion of the immigration authorities that the claimed relationship between the alleged father of appellant and appellant did not exist.

VI.

That the Court erred in holding that the claimed discrepancies, or any of them, in the testimony, as a result of the evidence adduced before the immigration authorities, were not subject to a reasonable explanation and reconcilable.

VII.

That the Court erred in not holding that any and

all of the claimed discrepancies in the testimony, as a result of the evidence adduced before the immigration authorities, were subject to a reasonable explanation and reconcilable.

VIII.

That the Court erred in holding that the evidence adduced before the immigration authorities was not sufficient, in kind and character, to warrant a finding by the immigration authorities that the claimed relationship between the alleged father of appellant and appellant existed. [33]

IX.

That the Court erred in not holding that the evidence adduced before the immigration authorities was sufficient, in kind and character, to warrant a finding by the immigration authorities that the claimed relationship between the alleged father of appellant and appellant existed.

X.

That the Court erred in holding that there was substantial evidence before the immigration authorities to justify the conclusion that the claimed relationship between the alleged father of the appellant and the appellant did not exist.

XI.

That the Court erred in not holding that there was no substantial evidence before the immigration authorities to justify the conclusion that the claimed relationship between the alleged father of the appellant and the appellant did not exist.

XII.

That the Court erred in holding that the appellant was accorded a full and fair hearing before the immigration authorities.

XIII.

That the Court erred in not holding that the appellant was not accorded a full and fair hearing before the immigration authorities.

WHEREFORE, appellant prays that the said order and judgment of the United States District Court for the Northern District of California made, given and entered herein in the office of the Clerk of said Court on the 17th day of February, 1931, denying the petition for a writ of habeas corpus, be reversed and that he be restored to his liberty and go hence without day.

Dated at San Francisco, California, February 26, 1931.

STEPHEN M. WHITE,
Attorney for Appellant. [34]

[Endorsed]: Due service and receipt of a copy of the within notice of appeal, etc., is hereby admitted this 26th day of February, 1931.

GEORGE J. HATFIELD,
United States Attorney,
Attorneys for Appellee.

Filed Feb. 26, 1931. [35]

[Title of Court and Cause.]

ORDER ALLOWING APPEAL.

It appearing to the above-entitled court that Chin Kim, the petitioner herein, has this day filed and presented to the above Court his petition praying for an order of this Court allowing an appeal to the United States Circuit Court of Appeals for the Ninth Circuit from the judgment and order of this Court denying a writ of habeas corpus herein and dismissing his petition for said writ, and good cause appearing therefor,—

IT IS HEREBY ORDERED that an appeal be and the same is hereby allowed as prayed for herein; and

IT IS HEREBY FURTHER ORDERED that the Clerk of the above-entitled court make and prepare a transcript of all the papers, proceedings and records in the above-entitled matter and transmit the same to the United States Circuit Court of Appeals for the Ninth Circuit within the time allowed by law; and

IT IS FURTHER ORDERED that the execution of the warrant of deportation of said Chin Ching, be and the same is hereby stayed pending this appeal and that the said Chin Ching, be not removed from the jurisdiction of this court pending this appeal.

Dated at San Francisco, California, February 26, 1931.

FRANK H. KERRIGAN,
United States District Judge. [36]

[Endorsed]: Due service and receipt of a copy of the within order allowing appeal is hereby admitted this 26th day of February, 1931.

GEORGE J. HATFIELD,
United States Attorney,
Attorneys for Appellee.

Filed Feb. 26, 1931. [37]

[Title of Court and Cause.]

ORDER TRANSMITTING ORIGINAL EXHIBITS.

Good cause appearing therefor, It IS HEREBY ORDERED that the Immigration Records filed as exhibits herein, may be transmitted by the Clerk of the above-entitled court to and filed with the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit to be taken as a part of the record on appeal in the above-entitled cause with the same force and effect as if embodied in the transcript of record and so certified by the Clerk of this court.

Dated this 26th day of February, 1931.

FRANK H. KERRIGAN,
United States District Judge.

[Endorsed]: Due service and receipt of a copy of the within order transmitting original exhibits

is hereby admitted this 26th day of February, 1931.

GEO. J. HATFIELD,
United States Attorney,
Attorneys for Appellee.

Filed Feb. 26, 1931. [38]

[Title of Court and Cause.]

PRAECIPE FOR TRANSCRIPT OF RECORD.

To the Clerk of Said Court:

Sir: Please issue copies of following papers for transcript on appeal:

1. Petition for writ of habeas corpus.
2. Order to show cause.
3. Appearance of respondent.
4. Exhibit "A"—findings and decision of Board of Special Inquiry.
5. Notice of filing of findings and decision of Secretary of Labor.
6. Exhibit "C"—findings and decision of Secretary of Labor.
7. Minute order respecting introduction of original immigration records.
8. Minute order denying petition for writ of habeas corpus.
9. Notice of appeal.
10. Petition for appeal.
11. Assignment of errors.
12. Order allowing appeal.

13. Order transmitting original immigration records. [39]

14. Praecipe.

STEPHEN M. WHITE,
Attorney for Appellant.

[Endorsed]: Filed Mar. 14, 1931. [40]

[Title of Court.]

CERTIFICATE OF CLERK U. S. DISTRICT
COURT TO TRANSCRIPT OF RECORD.

I, Walter B. Maling, Clerk of the United States District Court, for the Northern District of California, do hereby certify that the foregoing 40 pages, numbered from 1 to 40, inclusive, contain a full, true, and correct transcript of the records and proceedings in the Matter of Chin Ching, on Habeas Corpus, No. 20,399-K, as the same now remain on file and of record in my office.

I further certify that the cost of preparing and certifying the foregoing transcript of record on appeal is the sum of Fourteen Dollars and Five Cents (\$14.05) and that the said amount has been paid to me by the attorney for the appellant herein.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court this 21st day of March, A. D. 1931.

[Seal]

WALTER B. MALING,
Clerk.

By C. M. Taylor,
Deputy Clerk. [41]

[Title of Court and Cause.]

CITATION ON APPEAL.

United States of America,—ss.

The President of the United States, to JOHN D. NAGLE, Commissioner of Immigration, Port of San Francisco, and GEORGE J. HATFIELD, United States Attorney, GREETING:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at the City of San Francisco, State of California, within 30 days from the date hereof, pursuant to an order allowing an appeal, of record in the Clerk's office of the United States District Court for the Northern District of California, wherein Chin Ching is appellant and you are appellee, to show cause, if any, why the decree rendered against the said appellant, as in the said order allowing appeal mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable FRANK H. KERRIGAN, United States District Judge for the Southern Division of the Northern District of California, this 26th day of February, 1931.

FRANK H. KERRIGAN,
United States District Judge. [42]

Due service and receipt of a copy of the within citation on appeal is hereby admitted this 26th day of February, 1931.

GEO. J. HATFIELD.

GEORGE J. HATFIELD,

United States Attorney,

Attorneys for Appellee.

Filed Feb. 26, 1931. [43]

[Endorsed]: No. 6426. United States Circuit Court of Appeals for the Ninth Circuit. Chin Ching, Appellant, vs. John D. Nagle, as Commissioner of Immigration for the Port of San Francisco, California, Appellee. Transcript of Record. Upon Appeal from the United States District Court for the Northern District of California, Southern Division.

Filed March 28, 1931.

PAUL P. O'BRIEN,

Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.

